IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2518 OF 2005

Kum. Sangeeta Laxman Vidhate ... Petitioner

V/s

The Secretary,
Pragati Education Trust & ors. ... Respondents

Mr. Mihir Desai for the petitioner.

Ms. A.B. Shah for the respondent Nos. 1 & 2.

Ms. Mugdha Jadhav, A.G.P. for the Resp.Nos. 3 & 4.

CORAM: P.V. KAKADE, J.

DATED: 12TH DEC., 2005

P.C.:

1. Heard learned counsel for the petitioner and respondent Nos. 1 & 2 as well as learned A.G.P. for respondent Nos. 3 & 4.

2. Rule. Rule made returnable forthwith.

3. This writ petition under Art. 226 of the Constitution is filed by the petitioner teacher against the order passed by the Presiding Officer, School

Tribunal, Mumbai, dismissing the appeal filed by the petitioner against the termination of her services dated 30.3.1996.

4. The petitioner is S.S.C., H.S.C. and Diploma in Education and therefore fully qualified to teach 5th and 7th standards. Respondent No.2 is a school. It was in category of aided school.

It is the case of the petitioner that, she was appointed initially in July, 1992 against a clear and permanent vacancy. At the given time, the petitioner was in reserved category. She was re-appointed in 1993-94 but no appointment letter was issued to her. She worked in the academic year 1995-1996 but no appointment order was given to her and in August 1995 she was not allowed to sign the muster roll though the petitioner worked in primary school till 9.8.1995. It is alleged that on 9.8.1995 the management forcibly compelled the petitioner to write an application for transferring her from the primary to secondary section and also forced to write the earlier date on the application. In August, 1995, she joined the secondary section. On 25.11.1995 respondent No.2 issued a memo falsely alleging that 30% students had failed in the result of half yearly

examination of secondary section 5th and 7th standards and, therefore, her services came to be terminated by order dated 30.3.1996 on two grounds, namely, that the approval of the Education Department was granted only for one year i.e. 1995-1996 and on the basis of the confidential reports in the past acedemic year. The petitioner challenged the termination order before the School Tribunal in Appeal No. 29 of 1996 but it was dismissed and hence the present petition.

5. After hearing the learned counsel for both parties, the only point sought to be made by the learned counsel for the petitioner is that the order dated 30.3.1996 is in punitive manner in view of the observations to the effect that the services were terminated in view of the confidential reports of the past academic year.

6. In support of this argument, the learned counsel for the petitioner sought to put reliance on the judgment of the Supreme Court in the case of **V.P. Ahuja v/s State of Punjab & ors., reported in (2000) 3 SCC 239,** wherein it was observed that a probationer like a temporary servant is also entitled to certain protection and his services cannot be terminated arbitrarily or punitively without complying with the principles of natural

justice. On the basis of this observation made by the Apex Court, it was submitted that the termination order was punitive in nature though the confidential reports were not communicated earlier to the petitioner and hence on that count the petition is sought to be allowed.

However, it is to be noted that it is now settled position it is not imperative for the management to communicate the confidential reports to the employees. Moreover, it is further to be noted that what is referred to is only the confidential reports of the past acedemic year and not the details of the confidential reports and, therefore, it cannot be said that the order was of punitive nature. My attention was also brought to the various other memos issued to the petitioner by the management regarding her performance and, therefore, it is obvious that the reference to the confidential reports was not uncalled for.

7. So far as the tenor of service is concerned, it is clear by order dated 21.6.1995 that the petitioner was appointed for a fixed period of one year and said appointment letter was endorsed to and signed by the petitioner to the effect that it was received and

accepted by her. In view of this position, all other contentions sought to be raised on behalf of the petitioner are of no avail and, therefore, I hold that

the petition has no merits and order passed by the Tribunal has to be confirmed.

In the result, the petition stands dismissed with no order as to costs.

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